

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Opoku-Agyemang	Team: Team # 5	CCRB Case #: 201005893	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/28/2010 5:40 AM	Location of Incident: § 87(2)(b)	Precinct: 40	18 Mo. SOL 10/28/2011	EO SOL 10/28/2011	
Date/Time CV Reported Wed, 04/28/2010 2:03 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 05/04/2010 1:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			E S U
2. Officers			E S U
3. SDS Kevin Mulqueen	00766	890606	GANG BX
4. DT2 Jose Rodriguez	06634	907530	GANG BX
5. CPT Lorenzo Johnson	00000	894081	GANG BX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Hector Santiago	04610	903221	GANG BX
2. DT3 Miguel Hernandez	01741	920385	GANG BX
3. DT3 Paul Jeselson	01230	919215	GANG BX
4. DT3 Gaetano Lamazza	02977	922619	GANG BX
5. DT3 Thomas Dunsing	07648	903854	GANG BX
6. DT3 Pedro Alfonso	07529	903058	GANG BX
7. DTS Phillip Lucia	04866	904396	ESS 02
8. DTS Penelope Seaman	05024	916672	ESS 08
9. DTS William Hart	03968	922483	ESS 08
10. DTS Philip Scarangella	07348	902665	E S U
11. SSA Gerard Flood	03384	899227	E S U
12. DTS Dale Schultz	07354	899827	E S U
13. DTS Kevin Concannon	00576	905988	E S U
14. DTS Thomas Longa	07623	919315	E S U
15. DTS Andrew Bershad	00960	915306	ESS 01

Officer(s)	Allegation	Investigator Recommendation
A.CPT Lorenzo Johnson	Abuse: On April 28, 2010, Cpt. Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.	
B. Officers	Force: On April 28, 2010, inside § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C. An officer	Force: On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer used a chokehold against § 87(2)(b)	
D. An officer	Discourtesy: On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer spoke obscenely and/or rudely to § 87(2)(b)	
E. Officers	Force: On April 28, 2010, inside § 87(2)(b) in the Bronx, officers pointed their guns at § 87(2)(b)	
F.DT2 Jose Rodriguez	Abuse: On April 28, 2010, inside § 87(2)(b) in the Bronx, Det. Jose Rodriguez refused to provide his name and shield number to § 87(2)(b)	
G.CPT Lorenzo Johnson	Abuse: On April 28, 2010, inside § 87(2)(b) in the Bronx, Cpt. Lorenzo Johnson supervised the strip-search of § 87(2)(b)	
H.CPT Lorenzo Johnson	Abuse: On April 28, 2010, inside § 87(2)(b) in the Bronx, Cpt. Lorenzo Johnson refused to show a search warrant to § 87(2)(b) and § 87(2)(b)	
I.SDS Kevin Mulqueen	Discourtesy: On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen spoke obscenely and/or rudely to § 87(2)(b)	
J.SDS Kevin Mulqueen	Abuse: On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened § 87(2)(b) with the use of force.	
K.SDS Kevin Mulqueen	Abuse: On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened to notify Administration for Children's Services.	

Case Summary

On April 28, 2011, § 87(2)(b) called IAB and filed a complaint regarding the following incident, which was forwarded to the CCRB on May 4, 2011, via IAB log #10-21389 (Encl. 2A-B). § 87(2)(b) did not witness the incident but provided the names of the victims as his friends § 87(2)(b) and § 87(2)(b). On April 30, 2011, § 87(2)(b) and his aunt § 87(2)(b) also called IAB and filed a complaint regarding a separate incident, which was forwarded to the CCRB via IAB log #10-22017 (Encl. 2C-D). § 87(2)(b) was not a witness to this subsequent incident.

At approximately 5:40 a.m. on April 28, 2011, officers from the Emergency Services Unit and officers from the Bronx Gang Squad entered § 87(2)(b) in the Bronx, the residence of § 87(2)(b) and § 87(2)(b). The following allegations resulted:

- **Allegation A – Abuse of Authority – On April 28, 2010, Capt. Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.**
§ 87(2)(g)
- **Allegation B – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b).**
- **Allegation C – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer used a chokehold against § 87(2)(b).**
- **Allegation D – Discourtesy – On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer spoke obscenely and/or rudely to § 87(2)(b).**
§ 87(2)(g)
- **Allegation E – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, officers pointed their guns at § 87(2)(b).**
§ 87(2)(g)
- **Allegation F – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Det. Jose Rodriguez refused to provide his name and shield number to § 87(2)(b).**
§ 87(2)(g)
- **Allegation G – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Capt. Lorenzo Johnson supervised the strip-search of § 87(2)(b).**
§ 87(2)(g)
- **Allegation H – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Capt. Lorenzo Johnson refused to show a search warrant to § 87(2)(b) and § 87(2)(b).**
§ 87(2)(g)
- **Allegation I – Discourtesy – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen spoke obscenely and/or rudely to § 87(2)(b).**

§ 87(2)(g)

- **Allegation J – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened § 87(2)(b) with the use of force.**

§ 87(2)(g)

- **Allegation K – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened to notify Administration for Children's Services.**

§ 87(2)(g)

In IAB log #10-22017 and in § 87(2)(b)'s CCRB testimony, § 87(2)(b) and § 87(2)(b) alleged that, on two separate dates after April 28, 2010, at East 143rd Street and St. Ann's Avenue and at East 149th Street and St. Ann's Avenue in the Bronx, he was stopped by officers from the Bronx Gang Squad. § 87(2)(g)

This case was initially assigned to Investigator Greg Bok on May 6, 2010, but was reassigned to Investigator Alexander Opoku-Agyemang on August 20, 2010, following Investigator Bok's resignation from the CCRB.

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b)

IAB Complaint

§ 87(2)(b) called IAB on April 28, 2010, and filed a complaint on behalf of his friends § 87(2)(b) and § 87(2)(b) (Encl. 2A-B). He did not witness the incident itself.

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) *is a 5'6" tall, 130 pound, § 87(2)(b) old Hispanic male with black hair and brown eyes.* § 87(2)(b)

Statement to Medical Provider

On April 28, 2010, § 87(2)(b) went to § 87(2)(b) and report that, he was having pain in his right rib, legs, knees, and the side of his head, as a result of police "assault" earlier that morning (Encl. 4A).

CCRB Testimony

On June 29, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 4J-P). § 87(2)(g)

On April 28, 2010, at approximately 5:40 a.m., § 87(2)(b) was asleep inside the rear bedroom in § 87(2)(b) in the Bronx, with his cousin § 87(2)(b) when § 87(2)(b) was awakened when the door to the bedroom was forced open. Approximately five heavily armored, approximately 6'2" tall, 250 pound, white or Hispanic male police officers carrying assault rifles, entered the room. It was dark in the room, the only source of light being a flashlight carried by one of the officers, and § 87(2)(b) was never able to see the faces of the officers as a result. These officers were identified via the investigation as officers from the Emergency Services Unit. One of the officers struck § 87(2)(b) in the left temple with a gun and he fell to the ground and appeared to lose consciousness. § 87(2)(b) was then struck in the back of the neck with an unknown object and he fell to the ground as well. § 87(2)(b) felt blows to his ribs, lower back, and the left side of his face and head. He was kicked the ribs about seven times and in the back about seven times and was punched in the face and head five times. He could not see the officers who delivered these blows.

§ 87(2)(b) and § 87(2)(b) were handcuffed. As § 87(2)(b) asked what was happening and tried to sit up, one of the officers grabbed him by the throat with one hand and said, "Shut the fuck up." The officer had his hand on § 87(2)(b)'s neck for about one minutes, obstructing his breathing. § 87(2)(b) felt two blows to his ribs. He was pulled up and brought to the living room with § 87(2)(b). § 87(2)(b) stated that he and § 87(2)(b) did not initiate any physical contact with police officers while they were in the bedroom. § 87(2)(b) stated that he did not resist when officers placed handcuffs on him.

In the living room, § 87(2)(b) and § 87(2)(b) were both seated in chairs. § 87(2)(b)'s aunt, § 87(2)(b) was in handcuffs in the living room. § 87(2)(b) two young children were also in the room. The armored officers left and approximately eight plainclothes officers entered the apartment five minutes later. § 87(2)(b) described one officer as an approximately 5'7" to 5'8" tall, 155 pound Hispanic male with a blemished complexion and an average build. He believed that this officer was his arresting officer. The investigation identified this officer as Det. Hector Santiago. § 87(2)(b) described another officer as an approximately 6'0" to 6'2" tall, 235 to 240 pound Hispanic male. This officer was identified via the investigation as Det. Jose Rodriguez. He described a third officer as an approximately 5'8" tall, 160 pound, white male in his 40s with grey eyes and dirty blond hair who was referred to by other officers as a "Supervisor." This officer was identified via the investigation as Sgt. Kevin Mulqueen. He described another officer as an approximately 5'8" tall, 250 pound Hispanic male. This officer was identified as Det. Pedro Alfonso. He described two officers, who he identified as the two officers who transported him to the 40th Precinct stationhouse, as approximately 5'10" to 6'0" tall white males, one with blond hair and the other with brown hair. These officers were identified via the investigation as Det. Paul Jeselson and Det. Miguel Hernandez. The investigation determined that Capt. Lorenzo Johnson was also present inside the apartment while Det. Thomas Dunsing was present at the building, though he never entered the apartment. The officers asked about guns and drugs and whether they did anything illegal and § 87(2)(b) said that they hadn't.

Det. Rodriguez brought § 87(2)(b) to the bathroom and locked the door. § 87(2)(b) asked Det. Rodriguez for his badge number and name. Det. Rodriguez replied, "Don't worry about that, we're talking about something else." Det. Rodriguez asked § 87(2)(b) to take off his pants and his underwear, as well as his socks and shirt. He then told § 87(2)(b) to squat and lift up his testicles. The strip-search lasted three minutes and § 87(2)(b) was in the bathroom for about seven to ten minutes total. During this time, Det. Rodriguez told § 87(2)(b) that ACS would take § 87(2)(b) children away and that she would lose the apartment. § 87(2)(b) was taken from the bathroom and § 87(2)(b) was then taken in by Det. Rodriguez. § 87(2)(b) later told § 87(2)(b) that he was not strip-searched in the bathroom.

Back in the living room § 87(2)(b) asked all the officers present to see a search warrant. Sgt. Mulqueen

told him to “shut the fuck up” and then, “If you keep talking, I’m going to fuck you up, I’m going to punch you in the face.” § 87(2)(b) asked to speak with Sgt. Mulqueen’s supervisor and he replied, “I’m not the one to be fucked with? You think I was born yesterday? You think what happened to that kid who got the plunger up his ass can’t happen to you? Keep thinking we’re a game and I’ll fucking show you.” § 87(2)(b) asked to speak with a lawyer and Sgt. Mulqueen stated that he would “pull his dick out and shove it down § 87(2)(b)’s] throat if he kept running [his] mouth and asking questions.”

The plainclothes officers searched the apartment and found half a bag of marijuana. § 87(2)(b) and § 87(2)(b) were charged with § 87(2)(b) and taken to the 40th Precinct stationhouse by Det. Hernandez and Det. Jeselson. § 87(2)(b) and § 87(2)(b) were released with DATs.

§ 87(2)(b) and § 87(2)(b) returned to the apartment about forty minutes after the incident. There was no search warrant at the apartment and they could see that the entire apartment had been thoroughly searched. A number of household items, including a TV, DVD player, a furniture appeared to have been damaged during the search. There were also holes in the wall in § 87(2)(b) room. § 87(2)(b) and § 87(2)(b) went to § 87(2)(b). § 87(2)(b) was diagnosed with a concussion, facial swelling and bruises on his body.

§ 87(2)(b) claimed to have encountered officers in the vicinity of East 144th Street and St. Ann’s Avenue and East 149th Street and St. Ann’s Avenue on two occasions after April 28, 2011. § 87(2)(g)

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a 5’5” tall, § 87(2)(b) old Hispanic female with black hair and brown eyes. § 87(2)(b)

CCRB Testimony

On June 29, 2011, § 87(2)(b) was interviewed at the CCRB (Encl. 4Q-4T).

On April 28, 2010, at approximately 5:40 a.m., § 87(2)(b) was asleep inside § 87(2)(b) in the Bronx when her bedroom door was pushed in by police officers. The officers, who § 87(2)(b) could not describe, went to her bed and pointed rifles at her. § 87(2)(b) saw other officers going towards her son § 87(2)(b)’s room, but she did not see what happened inside his room. The officers handcuffed § 87(2)(b) and took her to the living room, where § 87(2)(b) and § 87(2)(b) were also in handcuffs.

There were several officers in the living room but § 87(2)(b) could only describe one of them, who she described as an approximately 5’8” white male in his mid-40s with a medium build and short brown hair. This officer was identified as Sgt. Kevin Mulqueen. Sgt. Mulqueen told § 87(2)(b) that he would “put a plunger up his ass.” A different officer then took § 87(2)(b) to the bathroom and closed the door.

The officers then removed § 87(2)(b) and § 87(2)(b) from the building and then returned to the apartment. The officers questioned § 87(2)(b) about guns and drugs. Sgt. Mulqueen said to § 87(2)(b) “Do you know we can throw you in jail and take your kids away from you?” § 87(2)(b) asked to see a search warrant but it was not shown to her. At the time of the incident, § 87(2)(b) aged § 87(2)(b) and § 87(2)(b), aged § 87(2)(b), were inside the apartment. § 87(2)(b) heard § 87(2)(b) ask Sgt. Mulqueen and other officers for their badge numbers and a search warrant but receive no response.

About 40 minutes later, § 87(2)(b) and § 87(2)(b) came back to the apartment and stated that

they were injured. § 87(2)(b) looked at their bodies and saw welts and bruises. She also saw a raised, dark red bump on the left side of § 87(2)(b) face. § 87(2)(b) did not see other injuries on § 87(2)(b)

Victim: § 87(2)(b)

- § 87(2)(b)

Notice of Claim

In his notice of claim filed on § 87(2)(b) (4U-CC), § 87(2)(b) alleged that when officers entered the apartment they struck him with their fists and a gun. Officers told him to "stop screaming like bitches" and to "shut the fuck up." He alleged that an officer told § 87(2)(b) that he would "shove his dick in your § 87(2)(b)s mouth." The apartment was searched and unspecified property was damaged. He suffered unspecified mental and physical injuries.

Attempts to Contact Civilians

On May 7, 2010, the CCRB contacted § 87(2)(b) and he stated that he had no desire to provide a statement for this investigation. § 87(2)(g)

Calls were made to § 87(2)(b) and § 87(2)(b) on October 18, 2010, and November 3, 2010, to arrange photo array viewings. Automated messages at both telephone numbers on both occasions indicated that the numbers were no longer in service. Lexis-Nexis searches conducted on December 15, 2010, provided no alternate telephone numbers. Letters were sent to both § 87(2)(b) and § 87(2)(b) on October 18, 2010. The letters were not returned by the US Postal Service. They did not respond to these contact attempts.

NYPD Statement(s):

Subject Officer: DET. JOSE RODRIGUEZ

- *Det. Rodriguez is a § 87(2)(b)-old, 6'0" tall, 240 pound Hispanic male with black hair and brown eyes.*
- *On April 28, 2010, Det. Rodriguez worked from 3:00 a.m. to 11:33 a.m., assigned with Det. Hector Santiago and Sgt. Kevin Mulqueen on a Bronx Gang Squad search warrant team. They were in plainclothes.*

Witness Officer: DET. HECTOR SANTIAGO

- *Det. Santiago is a § 87(2)(b)-old, 5'7" tall, 180 pound Hispanic male with black hair and brown eyes.*
- *On April 28, 2010, Det. Santiago worked from 3:00 a.m. to 11:33 a.m., assigned with Det. Jose Rodriguez and Sgt. Kevin Mulqueen on a Bronx Gang Squad search warrant team. They were in plainclothes.*

Memo Book

Det. Rodriguez (Encl. 5S-U) and Det. Santiago (Encl. 5A-C) note in their memo books that at 5:40 a.m. they entered an apartment with the ESU A-team, led by Sgt. Gerard Flood. Two males and a female were inside the apartment. Bullets, a smoke bomb, and marijuana were found. At 8:45 a.m. the bomb squad was called and they removed a smoke bomb.

Complaint # § 87(2)(b)

Arrest # § 87(2)(b) **and Arrest #** § 87(2)(b)

Voucher # § 87(2)(b)

The complaint (Encl. 5D-E) and arrest reports (Encl. 5F-I) for the arrests of § 87(2)(b) and § 87(2)(b) indicate that they were arrested for § 87(2)(b) during a search warrant. The vouchers (Encl. 5J-O) indicate that ammunition for several different gun calibers, three gun holsters, a magazine, a marijuana cigarette, and two bags of marijuana were found during the search warrant.

CCRB Testimony

On March 31, 2011, Det. Hector Santiago and Det. Jose Rodriguez were interviewed at the CCRB (Encl. 5P-R, 5V-X)). § 87(2)(g)

On April 28, 2010, at approximately 5:40 a.m., Emergency Services Unit officers breached the door of § 87(2)(b) in the Bronx, and entered the apartment in regards to a Search warrant that was being served by the Bronx Gang Squad. After the ESU officers secured the apartment and exited, Det. Santiago, Det. Rodriguez, Capt. Lorenzo, Sgt. Mulqueen, Det. Hernandez, and Det. Jeselson entered the apartment. Det. Santiago and Det. Rodriguez observed two males—identified through the investigation as § 87(2)(b) and § 87(2)(b) and one female—identified through the investigation as § 87(2)(b) in the living room of the apartment. Det. Rodriguez also recalled there having been a child. The ESU officers had overturned some of the furniture in the apartment; however, no property appeared to have been damaged. An officer from the field team gave § 87(2)(b) the search warrant and she read it in the living room. Neither Det. Santiago nor Det. Rodriguez recalled which officer handed her the warrant, however, and neither heard § 87(2)(b) or § 87(2)(b) request theirs or any other officers' name or shield number.

Neither officer saw any officers use force during the incident, choke individuals or hit them with a gun or baton. They did not observe injuries on either § 87(2)(b) or § 87(2)(b) or hear them complain of injury. Neither officer took § 87(2)(b) or § 87(2)(b) into a bathroom or saw any other officer do so. § 87(2)(b) was not strip-searched or instructed to remove pants. They did not see any officer threaten to arrest § 87(2)(b) threaten her with force or threaten to have her children removed by ACS. They did not see or hear any officer say to § 87(2)(b) "I'm going to fuck you up or punch you in face," threaten him with a plunger or threaten to shove a penis down him throats. They did not observe or hear any officer use profanity during the incident. § 87(2)(b) and § 87(2)(b) were removed to the 40th Precinct stationhouse.

Det. Santiago and Det. Rodriguez searched the apartment and Det. Santiago found a bag containing 2000 rounds of ammunition and what appeared to be a grenade. The officers evacuated the apartment and called the Bomb Squad, who arrived and ascertained the grenade was a smoke bomb. Det. Santiago issued summonses to § 87(2)(b) and § 87(2)(b) § 87(2)(b)

Subject Officer: CAPT. LORENZO JOHNSON

- *Capt. Johnson is a § 87(2)(b)-old, 5'10" tall, 220 pound white male with black hair and hazel eyes.*
- *On April 28, 2010, Capt. Johnson worked from 4:30 a.m. to 12:30 a.m., assigned as the Commanding Officer of the Bronx Gang Squad. He was in plainclothes and assigned to an unmarked car.*

CCRB Testimony

On April 26, 2011, Capt. Lorenzo Johnson was interviewed at the CCRB (Encl. 5Y-AA).

On April 28, 2010, at approximately 5:40 AM, Capt. Johnson and the field team executed a search warrant at § 87(2)(b) in the Bronx. An ESU team first breached the door and entered the apartment.

Capt. Johnson and the Gang Squad team remained outside the apartment while ESU was inside the apartment. Capt. Johnson stated that he observed the entrance of the ESU officers but remained outside and could not see what occurred inside. After some time, Capt. Johnson could not recall or estimate how long, the ESU officers exited the apartment and informed the Gang Squad that they had secured the apartment.

Upon entering the apartment, he observed § 87(2)(b) an unidentified female, and a children in the living room. Capt. Johnson did not observe any injuries on any of these individuals, at this point or at any later point during the incident. He did not recall any of these individuals having requested the name or shield number of any officers or having requested to see the search warrant. Capt. Johnson, however, stated that, though he did not recall specifically in regards to this incident, it is the usual practice of his command to show the search warrant to the residents upon entering an apartment. Capt. Johnson did not recall having threatened to call ACS or have the child taken away or having heard any officer do so. Capt. Johnson did not, and did not recall having hear any officers tell any of the residents to “shut the fuck up,” threaten to punch anyone in the face, put a plunger in his rectum, or a penis in his throat. Capt. Johnson did not see officers use force during the incident or choke individuals. Capt. Johnson did not recall either male having been searched, strip-searched, or taken to a bathroom while he was inside the apartment.

Subject Officer: SGT. KEVIN MULQUEEN

- *Sgt. Mulqueen is a § 87(2)(b)-old, 5’10” tall, 215 pound white male with light brown hair and hazel eyes.*
- *On April 28, 2010, Sgt. Mulqueen worked from 3:25 a.m. to 12:00 p.m., assigned as the search supervisor on a Bronx Gang Squad search warrant team. The team consisted of Det. Santiago, Det. Rodriguez, Det. Jeselson, Det. Dunsing, Det. Alfonso, and Capt. Johnson and they were in plainclothes.*

Memo Book

Sgt. Mulqueen notes in his memo book (Encl. 5BB-CC) that at 5:45 a.m. he entered an apartment with the ESU A-team. Two individuals were arrested

CCRB Testimony

On April 28, 2011, Sgt. Kevin Mulqueen was interviewed at the CCRB (Encl. 5DD-FF).

During the initial entry by the ESU officers Sgt. Mulqueen remained outside the building, along with Det. Alfonso and Det. Dunsing, observing the outside windows of the building to ensure that no objects were thrown out of the windows while ESU was entering the apartment. When all of the ESU officers exited the building and informed him that they had secured the apartment, Sgt. Mulqueen entered § 87(2)(b)

Inside the apartment, Sgt. Mulqueen observed § 87(2)(b) an unidentified female, and two children. Sgt. Mulqueen did not observe any injuries on either of the males and no one requested medical attention or complained of an injury. § 87(2)(b) requested to see the search warrant and it was shown to her by either Det. Santiago or Det. Rodriguez. In addition, a copy of the search warrant was given to her by Sgt. Mulqueen when the officers were leaving the apartment. Sgt. Mulqueen did not threaten to take § 87(2)(b)s children away or to call ACS. § 87(2)(b) and § 87(2)(b) did not request any officer’s name or shield number and Sgt. Mulqueen had his shield hanging around his neck the entire time. Sgt. Mulqueen stated that in almost all search warrants the first thing he does upon entering the apartment is announce his name and their purpose for being there. He did not recalled specifically to this incident but believed that he would have done so in this case.

Officers did not take any civilians into the bathroom or any other room, strip-search § 87(2)(b) or § 87(2)(b)

§ 87(2)(b) and officers did not ask either of them to remove his pants or underwear. Sgt. Mulqueen stated that had a strip-search been conducted of § 87(2)(b) or § 87(2)(b) at the apartment, he would have been the officer to authorize it and would have been aware of such an action taking place. Sgt. Mulqueen did not say, “I’m going to punch you in the face,” or “I’m not the one to be fucked with...you think I was born yesterday,” or “You think what happened to the kid who got the plunger up his ass can’t happen to you,” or “I’ll fucking kill you,” or “Shut the fuck up,” and did not hear other officers say these things. Sgt. Mulqueen did not and did not hear officers threaten to stick a plunger in § 87(2)(b)’s rectum or a penis into his throat.

Det. Santiago and Det. Rodriguez searched the apartment, with Sgt. Mulqueen observing, and found bullets, marijuana, several gun holsters, and what appeared to be a grenade. § 87(2)(b) and § 87(2)(b) were transported to the 40th precinct Stationhouse because officers could not determine to whom the ammunition and marijuana belonged. Det. Santiago and officers evacuated the apartment and called the Bomb Squad, who arrived several hours later and ascertained the suspected grenade was a smoke bomb. During the search bed sheets, cushions, and covers were pulled off beds and furniture but Sgt. Mulqueen did not observe any damage occur to any furniture or electronics during the search.

Witness Officer: DET. MIGUEL HERNANDEZ

- Det. Hernandez is a § 87(2)(b)-old, 5’11” tall, 220 pound Hispanic male with black hair and brown eyes.
- On April 28, 2010, Det. Hernandez worked from 4:00 a.m. to 12:33 a.m., assigned to a Bronx Gang Squad search warrant team. They were in plainclothes.

Witness Officer: DET. PAUL JESELSON

- Det. Jeselson is a § 87(2)(b)-old, 6’2” tall, 250 pound white male with reddish hair and blue eyes.
- On April 28, 2010, Det. Jeselson worked from 4:00 a.m. to 12:33 a.m., assigned to a Bronx Gang Squad search warrant team. They were in plainclothes.

Memo Book

Det. Jeselson (Encl. 5MM-NN) and Det. Hernandez’s (Encl. 5GG-II) memo books notes that at 5:40 a.m. two individuals were arrested at § 87(2)(b) by Det. Santiago. At 7:15 a.m. they transported the prisoners to the 40th Precinct stationhouse.

CCRB Testimony

On April 28, 2011, Det. Miguel Hernandez and Det. Paul Jeselson were interviewed at the CCRB (Encl. 5JJ-LL, 5OO-QQ). § 87(2)(g)

Det. Jeselson and Det. Hernandez did not recall whether or not a search warrant was requested by the occupants of the apartment or shown by any of the officers. They took § 87(2)(b) and § 87(2)(b) out of the building onto the street. Besides their vehicle, on the sidewalk, Det. Hernandez patted down the waistband and legs one of them while Det. Hernandez patted down the other in the same manner. They were then placed into the car and driven to the 40th Precinct stationhouse by Det. Hernandez and Det. Jeselson.

Witness Officer: DET. PEDRO ALFONSO

- Det. Alfonso is a § 87(2)(b)-old, 6’0” tall, 300 pound Hispanic male with black hair and brown eyes.
- On April 28, 2010, Det. Alfonso worked from 4:00 a.m. to 12:33 p.m., assigned as outside security on a Bronx Gang Squad search warrant team. They were in plainclothes.

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Witness Officer: DET. THOMAS DUNSING

- *Det. Dunsing is a § 87(2)(b)-old, 5'8" tall, 215 pound white male with grey hair and hazel eyes.*
- *On April 28, 2010, Det. Dunsing worked from 3:27 a.m. to 6:00 p.m., assigned as outside security on a Bronx Gang Squad search warrant team. They were in plainclothes.*

Memo Book

Det. Alfonso's memo book (Encl. 5VV-CC) notes that at 5:45 a.m., he was assigned as the rear security, along with Det. Dunsing, at § 87(2)(b). He left for the 40th Precinct stationhouse at 10:00 a.m.

Det. Dunsing's memo book (Encl. 5RR-SS) notes that at 6:00 a.m., he participated in a search warrant. He left for the 40th Precinct stationhouse at 11:00 a.m.

CCRB Testimony

On April 28, 2011, Det. Pedro Alfonso and Det. Thomas Dunsing were interviewed at the CCRB (Encl. 5TT-UU, 5YY-ZZ). § 87(2)(g)

Both De. Alfonso and Det. Dunsing stated that they were assigned as outside security during the search warrant and remained outside the entire time, never entering the location or interacting with the occupants.

Witness Officer: DET. GAETANO LAMAZZA

- *Det. Lamazza is a § 87(2)(b)-old, 5'10" tall, 225 pound white male with brown hair and hazel eyes.*
- *On April 28, 2010, Det. Lamazza worked from 8:00 a.m. to 4:33 p.m., assigned to Southern District of NY Court.*

Memo Book

Det. Lamazza has no memo book entries regarding this incident (Encl. 5AAA-5BBB). His went to the Southern District of New York court at 8:30 a.m., and returned to his command at 2:25 p.m.

CCRB Testimony

On April 28, 2011, Detective Gaetano Lamazza was interviewed at the CCRB (Encl. 5CCC-DDD).

On April 28, 2010, Det. Lamazza was assigned to go to the Southern District of New York in regards to a court case unrelated to this complaint. He acknowledged that his name was listed on the tactical plan but stated that he was never present at § 87(2)(b) on April 28, 2011.

Medical Records

§ 87(2)(b) sought medical attention from § 87(2)(b) on § 87(2)(b) (Encl. 6A-T). He complained of pain in his right ribs, legs, knees, and the left side of his face. He stated that the pain was a result of force used against him earlier that day by police officers. A physical examination revealed "slight redness and swelling to left side of forehead" (Encl. 6E). The summary of his diagnosis was "mild head pain after altercation, no loss of consciousness or neurological findings." X-rays of his ribs and chest found "no visible fracture or pneumothorax" (Encl. 6N). He was prescribed 800mg of ibuprofen and released (Encl. 6O). There is no mention of § 87(2)(b) having suffered a concussion.

NYPD Document(s)

Search Warrant

- Search Warrant § 87(2)(b) (Encl. 7A,11G), signed by Judge § 87(2)(b) on § 87(2)(b), authorized officers to enter § 87(2)(b) at any time of day within the ensuing ten days to search for firearms, ammunition, grenades, and other weapons.

Search Warrant Pre-Execution Plan

Search Warrant Tactical Plan

- The Pre-Execution Plan (Encl. 7B-C) lists Capt. Johnson as the “overall supervisor” and Sgt. Mulqueen as the “team leader/search supervisor.” Capt. Johnson is listed as Sgt. Mulqueen’s supervisor. Det. Santiago is listed as the arresting officer and Det. Rodriguez as the “recorder.” Det. Hernandez and Jeselson are listed as “hall security” and Det. Dunsing and Det. Alfonso are listed as “rear security.” E.S.U A-Team is listed as “entry into location. The tactical plan (Encl. 7D), list Sgt. Mulqueen, Det. Hernandez, and Det. Jeselson in the Lead Team, Det. Rodriguez, Det. Santiago, and Det. Lamazza as Team 1, and Det. Dunsing and Det. Alfonso as Team 2.

ESU Warrant Execution Supplement Report

Emergency Service Report

- The ESU Warrant Execution Report for the search warrant served at § 87(2)(b) on April 28, 2010 (Encl. 7E), lists Sgt. Gerard Flood as the supervisor, and Det. Phillip Lucia, Det. Penelope Seaman, Det. William Hart, Det. Phillip Scarangella, Det. Dale Schultz, Det. Kevin Concannon, Det. Thomas Longa, and Det. Andrew Bershad as the entry team. The Emergency Service Report (Encl. F) notes that the team entered the location, placed all occupants into custody, and relinquished control over to the Gang Squad. It notes that no injuries were suffered by the officers or the occupants of the apartment.

Command Log

- The command log for the 40th Precinct (Encl. 7G) indicates that Messrs. § 87(2)(b) and § 87(2)(b) were brought into the stationhouse at 7:25 a.m. Their physical conditions are listed as “normal.” They were both released with Desk Appearance Tickets.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) and § 87(2)(b) both filed Notices of Claim on § 87(2)(b) (Encl. 4B-H, 4U-CC). A request was made to the law department in regards to the status of their 50-H hearings. A response is being awaited.

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

■ [REDACTED]
[REDACTED]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by [§ 87(2)(b)] or [§ 87(2)(b)] or involving [§ 87(2)(b)] (Encl. 1F-I):

Subject Officer(s) CCRB History

- Sgt. Kevin Mulqueen has been a member of the service for twenty four years and there are no substantiated CCRB allegations against him (Encl. 1A-B).
- Capt. Lorenzo Johnson has been a member of the service for twenty three years and there is one substantiated CCRB allegations against him (Encl. 1C):
 - In regards to CCRB case number 200615435, an allegation of unlawful entry and search was substantiated against Capt. Johnson. He received instructions.
- Det. Jose Rodriguez has been a member of the service for seventeen years and there are three substantiated CCRB allegations against him (Encl. 1D-E):
 - In regards to CCRB case number 9702604, two allegations of force and an allegation of discourtesy were substantiated against Det. Rodriguez. He received a command discipline for the charges.

Conclusion

Identification of Subject Officer(s)

- According to the search warrant execution plan Capt. Johnson was the highest ranking officer present for the warrant and the overall supervisor. Capt. Johnson acknowledged this and testified that he was present for the entire incident. [§ 87(2)(g)] [REDACTED]
- [§ 87(2)(b)] described an approximately 5'8" tall, white male in his 40s with grey eyes and dirty blond hair who was referred to by other officers as a "Supervisor." [§ 87(2)(b)] also described an approximately 5'8" tall white male in his mid-40s with a medium build and short brown hair. [§ 87(2)(g)] [REDACTED]

§ 87(2)(g)

- § 87(2)(b) described an approximately 6'0" to 6'2" tall, 235 to 240 pound Hispanic male who took him into a bathroom. He indicated that this officer was not one of the officers who transported him to the stationhouse. There were two Hispanic officers, Det. Rodriguez and Det. Hernandez, who fit this description. Det. Hernandez, however, was one of the officers who transported him to the stationhouse.

§ 87(2)(g)

- § 87(2)(b) made several physical force allegations and a discourtesy allegation against one of the officers who initially entered the apartment and § 87(2)(b) alleged that they pointed guns at her. § 87(2)(b) could not provide descriptions of any of them and § 87(2)(b) could not see their faces because of the darkness in the apartment at that time. The investigation determined that these officers were part of the Emergency Services Unit A-Team. § 87(2)(b) stated that the officers mostly appeared to be approximately 6'2" tall white or Hispanic males. Of the nine ESU officers to enter that apartment, seven were 6'0" to 6'1" tall white males, one was a 6'0" tall white female, and one was a 5'7" tall Hispanic male. § 87(2)(g)

Allegations not Pleaded

- § 87(2)(g)
- § 87(2)(b) alleged that an officer threatened to have her arrested and her children taken away by ACS. Since these two threats were made as part of the same statement, the threat of arrest was subsumed into the threat to notify ACS allegation.
- § 87(2)(g)
- § 87(2)(b) alleged that some furniture and electronics was damaged during the search of the apartment. Sgt. Mulqueen stated that, while he had no specific recollection of this having been the case in this incident, it was not uncommon for this to occur when officers believe contraband is being hidden inside. This allegation was subsumed into the entry and search allegation.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority – On April 28, 2010, Capt. Lorenzo Johnson supervised the entry and search of § 87(2)(b) in the Bronx.

§ 87(2)(g)

Allegation B – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, officers used physical force against § 87(2)(b)

Allegation C – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer used a chokehold against § 87(2)(b)

Allegation D – Discourtesy – On April 28, 2010, inside § 87(2)(b) in the Bronx, an officer spoke obscenely and/or rudely to § 87(2)(b)

As previously discussed, the cooperating victims in this complaint were not able to see the officers who committed these allegations and were unavailable to provide detailed descriptions. Furthermore, the CCRB was unable to contact them to schedule photo array viewings. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Force – On April 28, 2010, inside § 87(2)(b) in the Bronx, officers pointed their guns at § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Det. Jose Rodriguez refused to provide his name and shield number to § 87(2)(b)

Det. Rodriguez denied that he took § 87(2)(b) into a bathroom and did not recall § 87(2)(b) having requested his name or shield number at any point. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Capt. Lorenzo Johnson supervised the strip-search of § 87(2)(b)

Det. Rodriguez denied having strip-searched § 87(2)(b) inside a bathroom in the apartment. All other officers denied that Det. Rodriguez took § 87(2)(b) into a bathroom and Capt. Johnson and Sgt. Mulqueen denied having authorized such a strip-search. There is no indication in the arrest reports, memo books, or command log that a strip-search was performed or authorized. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) testified that Det. Rodriguez, a male officer, took him into a bathroom alone and locked the door. He then requested that § 87(2)(b) remove all of his clothing, squat, and lift his testicles. He made no allegations that Det. Rodriguez made physical contact with his unclothed body. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Capt. Lorenzo Johnson refused to show a search warrant to § 87(2)(b) and § 87(2)(b)

§ 87(2)(b)

Det. Santana, Det. Rodriguez, and Sgt. Mulqueen all stated that a search warrant was left with § 87(2)(b)

§ 87(2)(b) when they left the apartment, though they did not recall which officer handed it to her. § 87(2)(b) denied that a search warrant was ever shown to her. § 87(2)(g)

Allegation I – Discourtesy – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen spoke obscenely and/or rudely to § 87(2)(b)
Allegation J – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened § 87(2)(b) with the use of force.

Sgt. Mulqueen denied having spoken discourteously to § 87(2)(b) or having threatened to use force against him. All other officers had no recollection of him having said these things. § 87(2)(g)

Allegation K – Abuse of Authority – On April 28, 2010, inside § 87(2)(b) in the Bronx, Sgt. Kevin Mulqueen threatened to notify Administration for Children's Services.

Sgt. Mulqueen denied having threatened to call ACS or have § 87(2)(b) children taken away. All other officers had no recollection of him having said this. § 87(2)(g)

Team: 5

Investigator: _____ :
Signature Alexander Opoku-Agyemang June 7, 2011
Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date